



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1995

Ms. Tracy R. Briggs
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-682

Dear Ms. Briggs:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32683.

The requestor has asked the City of Houston (the "city") for a copy of the Houston Emergency Medical Service ("EMS") report concerning the requestor, who apparently slipped and fell at the Houston Intercontinental Airport.¹ You submitted to this office as responsive to the request EMS records and a document that does not appear to be an EMS record. You contend that these records are excepted from disclosure pursuant to section 552.103(a).

As we explained to you in Open Records Letter No. 95-057 (1995), access to EMS records is governed by chapter 773 of the Health and Safety Code (the "EMS Act") rather than section 552.103(a) of the Government Code. Section 773.091 of the Health and Safety Code provides for confidentiality of EMS records:

(b) Records of the identity, evaluation or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

¹The requestor also asked for a copy of a report of the accident that was made by Continental Airlines. You indicate the city does not have a copy of the Continental Airlines report, but does have the EMS records.

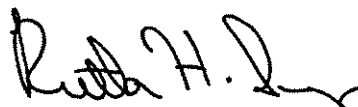
However, sections 773.092(a) and 773.093(a) provide for access to records when the patient or someone authorized to act on behalf of the patient submits a written, signed consent that specifies (1) the information to be released, (2) the reasons or purpose for the release and (3) the person to whom the information is to be released. *See* Open Records Decision No. 598 (1991) at 4 n.2.

You do not indicate whether the requestor, who also was the patient, has signed such a consent form. The city may not release the EMS records without such a consent form. However, if the city has received or receives such consent, the EMS records must be released.

As to the one responsive document at issue that is not subject to the EMS Act, you contend that the requestor has filed a claim for personal injury against the city, because her husband submitted a handwritten letter detailing the accident. Whether such a claim is sufficient to establish that litigation is reasonably anticipated under section 552.103(a) is the subject of a pending open records decision, RQ-804. You may withhold the document at issue pending the outcome of that decision.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Government Section

RHS/MAR/rho

Ref.: ID# 32683

Enclosures: Submitted documents

cc: Ms. Maria Cristina Byrne
12257 Valleyheart Drive
Studio City, California 91604
(w/o enclosures)